

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:02CR11
	§	
MICHAEL BRYAN JACKSON	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 18, 2015 to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Andrew Stover.

On November 26, 2006, Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to a sentence of 110 months imprisonment followed by a 5-year term of supervised release for the offense of Kidnaping. On June 8, 2010 this case was reassigned to the Honorable Richard A. Schell. Defendant began his term of supervision on June 3, 2010.

On September 4, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 50). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from any unlawful use of a controlled substance; (4) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a

physician; (5) Defendant shall not leave the judicial district without permission of the Court or probation officer; and (6) Defendant shall refrain from consuming alcoholic beverages or other intoxicants while on supervision.

The Petition alleges that Defendant committed the following violations: (1) Defendant was arrested by the Texas Department of Public Safety Highway Patrol on September 21, 2010, for Evading Arrest/Detention With a Vehicle, a State Jail Felony. On August 6, 2012, Defendant entered a plea of guilty to the reduced charge of Lesser Included Evading Arrest, a Class A Misdemeanor. Defendant was sentenced to 365 days in county jail with no fine and court costs of \$220. Defendant was granted 52 days for time served which included time he spent in the North Texas State Mental Hospital; (2) On July 15, 2014, Defendant was arrested by Chickasaw Nation Lighthorse Police Department, Oklahoma, for Possession of Controlled Dangerous Substance Marijuana, a criminal misdemeanor offense. Defendant was release on bond on July 17, 2014, in Love County, Oklahoma; (3) On March 24, 2014, Defendant submitted a urine specimen which tested positive for marijuana. He admitted verbally to Sr. U.S. Probation Officer Linda Werner that he used said substance; (4) On August 8, 2014, Defendant submitted a urine specimen which tested positive for marijuana. He admitted verbally to Sr. U.S. Probation Officer Linda Werner and Sr. U.S. Probation Officer Bill Gallimore that he used said substance; (5) On July 15, 2014, Defendant traveled outside the judicial district to Thackerville, OK, where he was arrested at Winstar Casino. Defendant did not have permission from the Court or probation officer to travel outside the judicial district; and (6) During a home visit on July 31, 2013, an Alco Pro Breathalyzer was administered and revealed positive results for the presence of alcohol at a 0.062 level.

At the hearing, Defendant entered a plea of not true to the alleged violations. Defendant did not waive his rights to allocute before the district judge and to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the June 18, 2015 hearing, the Court recommended eight (8) months custody with credit for time served and Defendant was ordered released pending final allocution hearing.

Within fourteen (14) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations contained herein. 28 U.S.C.A. § 636(b)(1)(C).

If Defendant seeks an allocution hearing before the District Judge, he shall notify the Court within 14 days of the date of this report and recommendation. Otherwise, the Court will consider the request for allocution hearing waived and proceed accordingly.

SIGNED this 2nd day of July, 2015.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE